



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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February 18, 2016

Dave and Brooke Phillips
c/o Project Management Services
Lisa Mardis
160 Fayette Street Suite 101
Morgantown, WV 26505

**RE: V16-01 / Phillips / 1041 Curtis Street
Tax Map 41, Parcel 365 & 366**

Dear Ms. Mardis:

This letter is to notify you of the decisions made by the Board of Zoning Appeals concerning the above referenced variance petition relating to the proposed development at 1041 Curtis Street. The decisions are as follows:

Board of Zoning Appeals, February 17, 2016:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted an eighteen (18) inch side setback variance relief from Article 1335.04(A)(3) as requested without conditions.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approvals are set to expire in twelve (12) months unless it can be demonstrated that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Please note that building permits must be issued prior to the commencement of work for which the variance approvals was granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving the development's planning and permitting needs.

Respectfully,

Stacy Hollar
Executive Secretary

ADDENDUM A – Approved Findings of Fact
V16-01 / Phillips / 1041 Curtis Street

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The proposed variance will not cause alternate encroachment issues on the realty, such as the front or rear property. It appears that the encroachment will only affect one parcel. However, the adjacent structure is situated far from the property boundary.

The newly constructed attached two-car garage and living space should improve the property value and the value of the properties within the neighborhood. The proposed side setback encroachment should not harm public interests or the rights of adjacent property owners as the area has been, according to the petitioner, maintained and used as part of the residential property of 1041 Curtis Street.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The existing home was constructed with an attached car port and a small amount of livable square footage. In order to improve their home and increase the property value, Mr. and Mrs. Phillips hired a contractor and secured a building permit. It was not until the two story garage and living space was near completion that an error was discovered.

According to the petitioner, when the Phillips moved into the residence, seven years ago, discussion ensued with the adjacent property owner in regards to the location of the side property line.

After obtaining consent from the adjacent property owner, this property was maintained and used by the Phillips as if it were their property for seven years.

According to the petitioner, for seven years the Phillips have resided at 1041 Curtis Street, with the belief that their realty extended to the fence line.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The additional square footage and two car garage should increase the property values of this and area properties.

Similar to variance case V15-23 on Riverview or V15-20 on Addison Circle, the hardship arises due to the fact that the increased property value and potential increased square footage inevitably requires a garage for most home buyers of the compatible homes on this street and area.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The two-car garage and increased square footage of living space will increase the property value of this home and surrounding properties. The variance will allow improved property's contribution to the surrounding built environment. Variance relief will permit the completion of an addition on to a single-family dwelling on a newly combined parcels that meet R-1A District minimum lot frontage and minimum lot area standards.